



STATE PERSONNEL DIVISION, DEPARTMENT OF ADMINISTRATION • ISSUE 14 • JULY 2004

How do employees feel about state jobs?

Survey identifies important monetary and non-monetary rewards

What's the word in your workplace? Do employees find their jobs rewarding? We recently asked, and nearly 3,700 state workers expressed interesting views about rewards and incentives in their government jobs.

On the whole, employees report relatively high satisfaction with job location (*city or town*), work schedule, independence, job security, and working relations with co-workers. Employees report relatively lower satisfaction with opportunities for performance-based pay, seniority-based pay, current pay levels, starting salaries, and employee recognition rewards.

The "Total Rewards Survey," administered by the Human Resources Standards and Service Bureau in the State Personnel Division, asked employees: **(1)** Which rewards are most important as retention incentives? And **(2)** How satisfied are employees with current rewards? Some of the survey results follow. Complete results are at: <http://www.surveymonkey.com/Report.asp?U=45120035557>.

Highlights

Employee survey findings	Page 2
Discipline for off-duty conduct	Page 3
Arbitration roundup	Page 4

“How important are the following rewards as incentives to stay in your job?”

Highest importance ratings (*percentage of respondents saying “very important”*):

- Comprehensive benefits package (79 percent)
- Job security (69 percent)
- Meaningful work (68 percent)
- Current salary (68 percent)
- Opportunity for pay based on performance (68 percent)
- Opportunity for pay based on longevity (65 percent)

Lowest importance ratings (*percentage of respondents saying “very important”*):

- Employee recognition program (21 percent)
- Opportunity for job-sharing or teleworking (30 percent)
- Starting salary significantly higher than others (33 percent)
- Organizational values match employee's personal values (40 percent)
- Working conditions such as office, cubical, noise levels (41 percent)
- Reputation of the organization (42 percent)

“How satisfied are you currently with these rewards?”

Highest satisfaction ratings (*percentage of respondents saying “very satisfied”*):

- Job location – city or town (76 percent)
- Work schedule (58 percent)
- Job independence (44 percent)
- Job security (41 percent)
- Job relationships with co-workers (40 percent)
- Opportunity for job-sharing or teleworking (40 percent)

Lowest satisfaction ratings (*percentage of respondents saying “very satisfied”*):

- Opportunity for performance-based pay (5 percent)
- Starting salaries (6 percent)
- Opportunity for pay based on seniority (7 percent)
- Current pay levels (8 percent)
- Employee recognition program (10 percent)
- Opportunity for promotion (11 percent)

It is probably no surprise to find that pay and benefits are very important to employees. Interestingly, employees also rate several non-monetary rewards as highly important in considering whether to stay in a job. Important non-monetary considerations include meaningful work, supportive managers, flexible schedules, job security, positive work relationships with co-workers, and job independence. Sometimes these non-monetary items can be improved for very little expense, and they can go a long way toward

helping your agency be an employer of choice for the capable workforce you want to retain.

The key in most situations is good communication. Do your employees feel good about what they do? Do your team members work well together? Are employees empowered to work independently when possible? All of these work attributes can be improved with effort and training. Managers have a tremendous responsibility to create an effective, efficient work environment for all their employees. Information about what employees think or how they feel can be a valuable tool.

Discipline for off-duty misconduct requires proof of job-related impact

Employer interest in off-duty conduct isn't what it used to be, and that's a good thing. If you worked for a certain automobile manufacturer in the 1920's, investigators from the employer's "Sociological Department" would inspect your home to ensure you were living a life of "thrift, cleanliness, sobriety, family values, and good morals in general." These days, as a general rule, it's none of the employer's business what employees choose to do in their off-duty time. Every general rule has exceptions, though. The purpose of this *Management View* article is to examine what happens when an employee stumbles and *makes* his or her off-duty conduct the employer's business.

Labor arbitrators don't like to see employers interfering with employees' off-duty activities any more than employers want to go there in the first place. *"To do so would constitute an invasion of the employee's personal life by the employer and would place the employer in the position of sitting in judgment on neighborhood morals, a matter which should be left to civil officers,"* one arbitrator ruled. The exception occurs when an employee's off-duty conduct has a discernible and negative impact on the employer's business. Management generally has a right to discipline and discharge employees for off-duty conduct that harms the employer's product or reputation in a manner that is discernible and not mere speculation.

One arbitrator noted that management can discipline the employee where *"there is a direct and demonstrable relationship between the illicit conduct and the performance of the employee's job."* This arbitrator cautioned that the consequences of all other conduct are *"to be left for correction or punishment by civil and moral authority,"* and, even where the conduct results in *"very substantial embarrassment to an employer,"* it *"cannot be merely assumed that particular conduct is related to job performance."* In summary, management should be prepared to show that the employee's outside activity had a readily discernible harmful effect on the employer's

"...management should be prepared to show that the employee's outside activity had a readily discernible harmful effect on the employer's operations."

operations. Thus, arbitrators will uphold discipline where the employer is able to prove the following (*Grievance Guide; 11th Edition; Bureau of National Affairs; p. 111*):

- The conduct made the employee unable to perform the job satisfactorily and/or led others to refuse to work with him/her;
- The misconduct jeopardized the employer's operations by, for example, creating publicity that harmed its public image.

Where an employer is unable to show a relationship or "nexus" between the misconduct and on-the-job performance, or prove adverse effect to its business, arbitrators typically will rule against the discipline imposed for off-duty activities. See the "Arbitration Roundup" in this issue of *Management View* for summaries of two state government cases involving discharge for off-duty misconduct.

Arbitration roundup

Each arbitration case involves specific bargaining histories, contract language and facts that could be unique to the agency involved. Contact your labor negotiator in the Labor Relations Bureau if you have questions about how similar circumstances might apply to language in your agency's collective bargaining agreement.

Care provider fired for relations with former patient

An arbitrator denied the grievance of a mental health care aide fired at a state facility because of the grievant's inappropriate off-duty personal relationship with a former patient. While on duty, the grievant had assisted with the patient's therapeutic counseling and activities during the patient's stay in the facility. After the patient was discharged, the patient was routinely referred to private-sector community mental health services. A few months after the discharge, state managers received allegations from private care providers that the grievant, during off-duty hours, was interfering with the patient's treatment and personal life.

The best evidence was in the form of emotionally abusive and manipulative letters the grievant wrote to the patient after the patient's discharge from the hospital. The grievant was trying to convince the patient to leave the patient's family and relocate to a different community. Private-sector health care professionals and members of the patient's family provided copies of the letters to the state managers who employed the grievant. The letters proved the grievant pursued a personal relationship with the former patient, which was against the employer's policies.

The letters proved the grievant pursued a personal relationship with the former patient, which was against the employer's policies.

The employer discharged the grievant for violating appropriate staff-patient therapeutic boundaries. The union argued it was none of the employer's business what the grievant

chose to do, or whom the grievant chose to associate with, during off-duty hours. The employer argued that because the grievant's inappropriate letters had worked their way into the private-sector mental health community with considerable notoriety, the grievant had put the employer's business reputation at unreasonable risk.

Arbitrator Jim Reed agreed with the state's argument and denied the grievance. *"The letters were an extreme embarrassment to the employer and could very well impact the future use of the facility,"* Arbitrator Reed ruled.

"The question raised is, why would a doctor refer one of his or her patients to a facility that employs people who get involved with and abuse patients as this grievant did?"

To what extent do these letters damage the reputation of the hospital? It is a well established principal in arbitration that an

employee's conduct, while he is off duty, is a dischargeable offense if that conduct is related to his employment or is found to have an actual or reasonably foreseeable adverse effect upon the business."

"It is a well established principal in arbitration that an employee's conduct, while he is off duty, is a dischargeable offense if that conduct is related to his employment or is found to have an actual or reasonably foreseeable adverse effect upon the business."

Laundry worker fired for off-duty drug conviction

An arbitrator denied the grievance of a state laundry worker discharged for off-duty drug crimes because he worked at a facility that housed a drug and alcohol rehabilitation program. The 1991 discharge occurred at a facility that has since closed and relocated in department reorganization. All employees were subject to a drug-free workplace policy. The program relied upon its good reputation with the courts, legislators, and the public.

The violation came to management's attention when the local newspaper reported the employee's (the grievant's) plea bargain to two felony counts of possession of dangerous drugs with intent to sell. The crime occurred away from the workplace during the grievant's off-duty hours. The judge did not send him to prison, but imposed a three-year suspended sentence, placed the grievant on supervised probation, and fined him \$500. The judge also ordered the grievant to undergo chemical dependency evaluation and treatment.

The employer discharged the grievant immediately after reading a copy of the court order containing the specifics of the grievant's plea bargain. Arbitrator Jack Flagler upheld the discharge for just cause. The criminal conduct of possessing or selling illegal drugs away from the work place does not constitute automatic grounds for employment termination, Flagler ruled. To justify discharge, the employer must establish a nexus (a relation or link) between the workplace and the off-duty, off-premise criminal activity associated with illegal drugs. Flagler believed the employer established a nexus in this case.

The most convincing argument heard from the employer concerned the possible political and budgetary fall-out from the adverse publicity, Flagler ruled. *"Unfortunately for the employer's reputation – upon which it must rely to survive in the competition for limited public revenues – such a public scandal could provide substantial political advantage to those seeking to curtail or even eliminate funding of the agency's mission. The employer not only has the right but the responsibility to protect the institution, its patients and its employees from this very real potential for severe consequences of the grievant's criminal activities. Little forgiveness would likely be given to the employer by the public at large or some legislators in particular if the media were to seize on the information that the employer knowingly continued in its employ a person convicted of felonious sales of dangerous drugs."*

"...Little forgiveness would likely be given to the employer by the public at large or some legislators in particular if the media were to seize on the information that the employer knowingly continued in its employ a person convicted of felonious sales of dangerous drugs."

Index to recent *Management View* articles:

Discipline and Discharge

Defending a disciplinary action (investigation and proof)

<http://www.discoveringmontana.com/doa/spd/EmployeeLaborRelations/Newsletter3Oct.pdf>

Progressive discipline (the "shelf life" of written warnings)

<http://www.discoveringmontana.com/doa/spd/EmployeeLaborRelations/Newsletter4Jan2002.pdf>

Discharge viewed as "economic capital punishment"

<http://www.discoveringmontana.com/doa/spd/EmployeeLaborRelations/Newsletter8Jan2003.pdf>

Investigating computer-related misconduct

<http://www.discoveringmontana.com/doa/spd/EmployeeLaborRelations/Newsletter13April2004.pdf>

Appropriate Internet and Email use (state policies)

<http://www.discoveringmontana.com/doa/spd/EmployeeLaborRelations/Newsletter12January2004.pdf>

Drugs and alcohol

<http://www.discoveringmontana.com/doa/spd/EmployeeLaborRelations/Newsletter11Oct2003.pdf>

Incompetence vs. misconduct

<http://www.discoveringmontana.com/doa/spd/EmployeeLaborRelations/Newsletter9April2003.pdf>

Insubordination

<http://www.discoveringmontana.com/doa/spd/EmployeeLaborRelations/Newsletter10July2003.pdf>

Criminal misconduct

<http://www.discoveringmontana.com/doa/spd/EmployeeLaborRelations/Newsletter5April2002.pdf>

Duty to bargain

Mandatory subjects of bargaining

<http://www.discoveringmontana.com/doa/spd/EmployeeLaborRelations/Newsletter1April2001.pdf>

Alternative pay plans involve special considerations.

<http://www.discoveringmontana.com/doa/spd/EmployeeLaborRelations/Newsletter3Oct.pdf>

What does "past practice" mean?

<http://www.discoveringmontana.com/doa/spd/EmployeeLaborRelations/Newsletter7Oct2002.pdf>

Questions, comments or suggestions? Contact the Labor Relations Bureau or visit our website: www.discoveringmontana.com/doa/spd

Paula Stoll, Chief	444-3819	pstoll@state.mt.us
Kevin McRae	444-3789	kmcrae@state.mt.us
Butch Plowman	444-3885	bplowman@state.mt.us
Ruth Anne Hansen	444-3892	ruhansen@state.mt.us